

(2020) 07 MP CK 0165
In the Madhya Pradesh High Court
Case No : Writ Petition No. 9246 Of 2020

Veerendra Singh Raghuvanshi

APPELLANT

Vs

Professional Examination Board, Bhopal And Others

RESPONDENT

Date of Decision : 24-07-2020

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2020) 07 MP CK 0165

Hon'ble Judges : Ajay Kumar Mittal, J;Vijay Kumar Shukla, J

Bench : Division Bench

Advocate : N. S. Ruprah, Swapnil Ganguly

Final Decision : Dismissed

Judgement

Vijay Kumar Shukla, J

1. Heard through video conferencing.
2. The present petition has been filed under Article 226 of the Constitution of India for quashing of Annexure-P/1 dated 16-9-2019 and the Key Committee Report dated 20-5-2019, Annexure-P/8, so as far it does not rectify the mistakes in the model answer paper of the subject of Hindi in respect of question No.1(d). The petitioner has also prayed for a direction to revalue the result of the petitioner in view of the correct answer given by him to the question No.1.
3. The facts of the case, briefly stated, are that petitioner appeared in the High School Teachers Eligibility Test, 2018 dated 02-02-2019 conducted by the Professional Examination Board, Bhopal. In the paper of Hindi the petitioner answered the question regarding the period of Hindi Literature correctly, but the model answers prepared by the respondents are " M.P.

Professional Examination Board gave a wrong answer. It is further urged that the petitioner submitted a representation wherein the Key Committee report dated 20-5-2019 rejecting the petitioner's objection declared the model answers as unchangeable.

4. The result was declared on 28-8-2019. It is stated that the petitioner again gave a representation on 03-9-2019, but the issue of question No.1 was finally decided on 16-9-2019, whereby the petitioner was informed that his objection has been disposed of by experts of the Board as per Rule 2.9 and 2.10 and the amendment impermissible.

5. Learned counsel for the petitioner submits that the model answer given by the respondents is incorrect and, therefore, in such a situation, interference is warranted. In support of his submissions he has placed reliance on the judgment passed by the Supreme Court in the case of High Court of Tripura through the Registrar General vs. Tirtha Sarathi Mukherjee and others, (2019) 16 SCC 663.

6. The learned counsel for the respondents submitted that the issue involved in the present case has already been decided by a Co-ordinate Bench of this Court in W.P. No.4046/2020 [Archana Jha and another vs. The Professional Examination Board and another] after referring to various judgments of this Court and the Apex Court.

7. We have heard the learned counsel for the parties and we do not find any merit in the present writ petition.

8. It is not in dispute that the question papers and model answers are fixed by the experts of the M.P. Professional Examination Board. This Court in the case of Archana Jha and another (supra) has considered the order passed in W.P. No.1876/2020 - Nidhi Nema and others vs. The Professional Examination Board and others.

9. We have perused the order passed in the case of Nidhi Nema(supra) and find that no interference is called for in the present case also. In the case of Nidhi Nema(supra) this court has held as under :

“This Court has already examined the formula contained in Clause 2.9A and 2.9B in W.P. No.20290/2019 (Pushpendra Burman and others vs. The State of M.P. and

others) decided on 29.11.2019. The model questions and model answers are prepared on the recommendation of Expert Committee and therefore, this Court

cannot

examine the correctness of the model questions and answers prescribed by the respondents in the examination.

We have heard learned counsel for the parties and perused the record. We are of the view that in academic matters where question papers and key answers are set by

a body of experts, no interference is called for.â??

10. In the case of Nitin Pathak vs. State of M.P. and others 2017(4) M.P.L.J 353 , the Full Bench of this Court has laid down following principles:-

In exercise of power of Judicial Review, the Court should not refer the matter to court appointed expert as the courts have a very limited role particularly when no mala fides have been alleged against the experts constituted to finalize answer key. It would normally be prudent, wholesome and safe for the courts to leave the decisions to the academicians and experts.

Secondly, this Court does not and should not act as Court of Appeal in the matter of opinion of experts in academic matters as the power of judicial

review is concerned, not with the decision, but with the decision making process. The Court should not under the guise of preventing the abuse of

power be itself guilty of usurping power.

11. Further, the Apex Court in the case of Ran Vijay Singh and others vs. State of Uttar Pradesh and others (2018) 2 SCC 357 held that :-

Â ""31. On our part we may add that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. If an

error is committed by the examination authority, the complete body of candidates suffers. The entire examination process does not deserve to be derailed only

because some candidates are disappointed or dissatisfied or perceive some injustice having been caused to them by an erroneous question or an erroneous answer.

All candidates suffer equally, though some might suffer more but that cannot be helped since mathematical precision is not always possible. This Court has shown one way out of an impasse - exclude the suspect or offending question.

32. It is rather unfortunate that despite several decisions of this Court, some of which have been discussed above, there is interference by the Courts in the result of

examinations. This places the examination authorities in an unenviable position where they are under scrutiny and not the candidates. Additionally, a massive and sometimes prolonged examination exercise concludes with an air of uncertainty. While there is no doubt that candidates put in a tremendous effort in preparing for an

examination, it must not be forgotten that even the examination authorities put in equally great efforts to successfully conduct an examination. The enormity of the

task might reveal some lapse at a later stage, but the Court must consider the internal checks and balances put in place by the examination authorities before

interfering with the efforts put in by the candidates who have successfully participated in the examination and the examination authorities. The present appeals are a

classic example of the consequence of such interference where there is no finality to the result of the examinations even after a lapse of eight years. Apart from the examination authorities even the candidates are left wondering about the certainty or otherwise of the result of the examination "whether they have passed or not;

whether their result will be approved or disapproved by the Court; whether they will get admission in a college or University or not; and whether they will get

recruited or not. This unsatisfactory situation does not work to anybody's advantage and such a state of uncertainty results in confusion being worse confounded.

The overall and larger impact of all this is that public interest suffers.

12. In view of the aforesaid, the judgment referred by the learned counsel for the petitioner would not render any assistance to the facts of the present

case, as in the present case, the question papers and the model answers are set by subject experts.

13. In the obtaining factual matrix, we do not find any case for interference in writ jurisdiction. Ex-consequenti, the writ petition, being sans merit, is

dismissed. There shall be no order as to costs.